

LAW OFFICES OF IVETTE AMELBURU MANINGO, ESQ.
IVETTE AMELBURU MANINGO, ESQ.
NEVADA BAR NO. 7076
400 S. 4th Street, Suite 500
Las Vegas, Nevada 89101
(T): (702) 793-4046
(F): (844) 793-4046
EMAIL: iamaningo@iamlawnvlaw.com
Attorney for Frank Alfter

UNITED STATES DISTRICT COURT
OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 2:16-cr-00100-GMN-CWH
)
v.)
)
JAN ROUVEN FUECHTENER,)
)
)
Defendant.)
_____)

**MOTION FOR EXPEDITED CONSIDERATION AND ADJUDICATION OF
INTERESTED PARTY FRANK ALFTER'S OBJECTION TO MAGISTRATE JUDGE'S
JULY 24, 2017 REPORT & RECOMMENDATION #207 RESTRAINING SALE
PROCEEDS AT RELATED HEARING SCHEDULED FOR AUGUST 14, 2018**

COMES NOW, FRANK ALFTER, by and through undersigned counsel, Ivette Amelburu Maningo, of the Law Offices of Ivette Amelburu Maningo, appearing in a limited capacity in this case, and respectfully submits this Motion for Expedited Consideration and Adjudication of

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1 Interested Party Frank Alfter's Objection to Magistrate Judge's July 24, 2017 Report &
2 Recommendation #207 Restraining Sale Proceeds at Related Hearing Scheduled for August 14,
3 2018.

4 DATED this 27th day of July, 2018.

5 **Law Offices of Ivette Amelburu Maningo**

6 /s/ Ivette Maningo

7 IVETTE AMELBURU MANINGO, ESQ.

8 Nevada Bar No.: 7076

9 400 S. 4th Street, Suite 500

10 Las Vegas, Nevada 89101

11 (T): (702) 793-4046

(F): (844) 793-4046

Attorney for Frank Alfter

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 On November 17, 2016, Defendant, Jan Rouven Fuechtener, plead guilty to several counts
14 in this case. Because Fuechtener was in custody and his husband, Frank Alfter, had returned home
15 to Germany, the parties were no longer residing in their Las Vegas home located on Donald
16 Nelson Avenue and accordingly, listed the property for sale. The residence was titled in the name
17 of the F.A.J.R. Magic Trust, in which Frank Alfter and Jan Rouven Fuechtener are designated as
18 Grantors, Trustees and Beneficiaries of said trust. On May 18, 2017, the Government filed an
19 Emergency Motion for Restraining Order Under All Writs Act (ECF No. 164) requesting an order
20 restraining distribution of the proceeds (\$1,318,868.82) from the May 25, 2017 sale of the home.
21 Mr. Alfter intervened in the case on May 31, 2017 as an interested party and has participated in
22 several rounds of briefing regarding his respective interests and rights in the proceeds of his home
23 and the funds (total of \$975,300) that were eventually ordered deposited with the Court Clerk in
24 this matter.
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27 In the midst of litigating the issues related to the proceeds of the home held in escrow by
28 the title company, Defendant Fuechtener filed a motion to withdraw his guilty plea on June 22,

1 2017. (ECF No. 269). Ultimately, on July 24, 2017, Magistrate C.W. Hoffman issued a Report
2 and Recommendation (R&R”) (ECF No. 210) recommending that the Court Clerk continue
3 holding the \$975,300 previously deposited pending Defendant Fuechtener’s sentencing to satisfy
4 any criminal monetary penalties, with any remainder returned to the trust. The Magistrate further
5 recommended that if Defendant Fuechtener was permitted to withdraw his guilty plea, the
6 \$975,300 was to be released to the F.A.J.R. Magic Trust. Pursuant to the Magistrate’s
7 recommendation, the total funds that were to be released to the Trust was \$263,268.82. However,
8 despite the Government’s assertion in their Opposition to Defendant Fuechtener’s Request for
9 Release of Funds that said amount “went to the Defendant,” the title company only released a
10 portion of said funds to the Trust in the amount of \$133,568.82 and released \$210,000.00 to the
11 Internal Revenue Service (15% of the total proceeds from the sale of the home).
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13 Objections to the R&R were filed by Defendant Fuechtener (ECF No. 210) and by Alfter
14 (ECF No. 214) and the Government filed a Response to said Objections (ECF No. 217).
15 Subsequently, on June 15, 2018, this Honorable Court denied Defendant Fuechtener’s motion to
16 withdraw his plea (ECF No. 269). As such, the funds deposited with the Court Clerk in the
17 amount of \$975,300 were not released to the F.A.J.R. Magic Trust and are still being held by the
18 Court Clerk. Defendant Fuechtener has filed an Emergency Request for Release of Funds (ECF
19 No. 277) which has been opposed by the Government (ECF No. 278) and set for hearing on
20 August 14, 2018. Alfter’s Objection to the Magistrate Judge’s July 24, 2017 Report &
21 Recommendation #207 Restraining Sale Proceeds is still pending before this Honorable Court.
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24 Defendant’s recent request to release funds and the Government’s opposition to same is
25 related to Alfter’s currently pending Objection to the R&R and therefore, Alfter’s position as to his
26 respective interests and rights in the funds should be considered accordingly. As such it is
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1 requested that Alfter's Objection be expeditiously considered, that the undersigned counsel for
2 Alfter be permitted to be heard at the August 14, 2018 hearing related to the release of said funds,
3 and that Alfter's Objection be adjudicated at said time.
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5 DATED this 27th day of July, 2018
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8 **Law Offices of Ivette Amelburu Maningo**

9 /s/ Ivette Maningo
10 IVETTE AMELBURU MANINGO, ESQ.
11 Nevada Bar No.: 7076
12 400 S. 4th Street, Suite 500
13 Las Vegas, Nevada 89101
14 (T): (702) 793-4046
15 (F): (844) 793-4046
16 *Attorney for Frank Alfter*

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of July, 2018, I served a true and correct copy of the foregoing *Motion for Expedited Consideration and Adjudication of Interested Party Frank Alfter's Objection to Magistrate Judge's July 24, 2017 Report & Recommendation #207 Restraining Sale Proceeds at Related Hearing Scheduled for August 14, 2018*, by submitting electronically for filing and/or service within the Court's CM/ECF system and by electronic mail on 27th day of July, 2018, to the following:

Christina D. Silva, United States Attorney
Christina.silva@usdoj.gov

Daniel D. Hollingsworth, United States Attorney
Daniel.hollingsworth@usdoj.gov

Elham Roohani, United States Attorney
Elham.Roohani@usdoj.gov

Lisa Cartier-Giroux, United States Attorney
Lisa.Cartier-Giroux@usdoj.gov

Mark Woolf, Assistant United States Attorney
Mark.Wolf@usdoj.gov

Karen Connolly, Esq, Attorney for Defendant
advocate@kconnollylawyers.com; legalassistant@kconnollylawyers.com

/s/ Rhiannon Gantt
Assistant to Ivette Amelburu Maningo, Esq.